

fact sheet

employment standards act

EMERGENCY LEAVE

What is the purpose of the *Employment Standards Act, 2000 (ESA)*?

The *ESA* sets out the rights of employees and requirements that apply to employers in most Ontario workplaces.

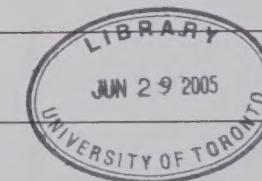
What work is not covered by the *ESA*?

Most employees and employers in Ontario are covered by the *ESA*. However, the *ESA* does **not** apply to certain individuals and persons or organizations for whom they may perform work, including:

- Employees in sectors that fall under federal jurisdiction, such as airlines, banks, the federal civil service, post offices, radio and television stations and inter-provincial railways
- Individuals performing work under a program approved by a college of applied arts and technology or university
- A secondary school student who performs work under a work experience program authorized by the school board that operates the school in which the student is enrolled
- People who do community participation under the *Ontario Works Act, 1997*
- Police officers (except for the Lie Detectors part of the *ESA*, which *does* apply)
- Inmates taking part in work or rehabilitation programs, or young offenders who perform work as part of a sentence or order of a court
- People who hold political, judicial, religious or elected trade union offices.

Employees of the Crown are excluded from some (but not all) provisions of the *ESA*.

For a complete listing of other work categories not governed by the *ESA*, please check the *ESA* and its regulations. Regulations set out exemptions to the law, special rules and details about how to apply certain sections of the *ESA*.



NOTES

Need More Information?

If you have questions about the *Employment Standards Act*, call the Ontario Ministry of Labour's Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551, or visit a Ministry of Labour office or Government Information Centre in person.

Here's how you can get written publications about the *Employment Standards Act*:

- Ministry of Labour website: www.gov.on.ca/lab
- Ministry of Labour Publications Sales unit: 1-800-809-4731

ESA Fact Sheets are available on the following subjects:

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|------------------------------------------------------------------|--------------------------------------------------------------------|
| <input type="checkbox"/> Agricultural Workers | <input type="checkbox"/> Minimum Wage |
| <input type="checkbox"/> Domestic Workers | <input type="checkbox"/> Pregnancy Leave & Parental Leave |
| <input type="checkbox"/> Emergency Leave | <input type="checkbox"/> Public Holidays |
| <input type="checkbox"/> Family Medical Leave | <input type="checkbox"/> Retail Workers |
| <input type="checkbox"/> Frequently Asked Questions | <input type="checkbox"/> Role of the Ministry of Labour |
| <input type="checkbox"/> Homeworkers | <input type="checkbox"/> Termination of Employment & Severance Pay |
| <input type="checkbox"/> Hours of Work & Overtime | <input type="checkbox"/> Vacation |
| <input type="checkbox"/> How Are You Covered by the <i>ESA</i> ? | <input type="checkbox"/> What Young Workers Should Know |
| <input type="checkbox"/> How to File a Claim | |

*This Fact Sheet is provided for your information and convenience only. It is not a legal document. For further information and the exact wording in the *ESA*, please refer to the *Employment Standards Act, 2000 (ESA)* and regulations.*

Please call the Employment Standards Information Centre in the greater Toronto area at 416-326-7160, or toll-free outside Toronto at 1-800-531-5551.

Information on the *ESA* can also be found at the *Employment Standards Act* section of the Ministry of Labour's website: www.gov.on.ca/lab. You can order copies of the *ESA* and related information materials from:

- the Ministry of Labour's Publication Sales Unit at 1-800-809-4731;
- the Ontario government E-Laws website at www.e-laws.gov.on.ca or,
- Publications Ontario, 1-800-668-9938; hearing impaired TTY 1-800-268-7095.



QUALIFYING FOR EMERGENCY LEAVE

What is emergency leave?

Emergency leave is unpaid, job-protected leave of up to 10 days each year.

Emergency leave may be taken in the case of illness, injury and certain other emergencies and urgent matters.

Who can take emergency leave?

Employees who work for employers that regularly employ at least 50 employees are entitled to emergency leave.

What if an employee works for an employer that regularly employs fewer than 50 employees?

The employee is not entitled to emergency leave under the *ESA*.

For what reasons can an unpaid emergency leave be taken?

An employee who is entitled to emergency leave can take up to 10 days' unpaid leave of absence due to:

- personal illness, injury or medical emergency, and
- death, illness, injury, medical emergency of or urgent matters relating to:
 - a spouse or same-sex partner
 - a parent, step-parent, foster parent, child, step-child, foster child, grandparent, step-grandparent, grandchild or step-grandchild of the employee, the employee's spouse or the employee's same-sex partner
 - the spouse or same-sex partner of an employee's child
 - a brother or sister of the employee
 - a relative of the employee who is dependent on the employee for care or assistance.

Is emergency leave the same as sickness or bereavement leave?

No. Unpaid emergency leave can be taken because of illness or death in particular circumstances. Sickness or bereavement leaves, however, are often part of a workplace policy or employment contract, or covered under employer benefit plans.

Is emergency leave the same as family medical leave?

No. Emergency leave is unpaid, job-protected leave of up to 10 days each calendar year. Emergency leave may be taken in the case of personal illness, injury or medical emergency and the death, illness, injury, medical emergency of or urgent matter relating to certain family members and dependent relatives.

Family medical leave, on the other hand, is unpaid, job-protected leave of up to eight (8) weeks in a 26 week period. Family medical leave may be taken to provide care and support to certain family members for whom a qualified health practitioner has issued a certificate stating that this family member has a serious illness with a significant risk of death occurring within a period of 26 weeks.

Further, while only employees who work for employers that regularly employ at least 50 employees are entitled to emergency leave, this is not a requirement for family medical leave. The persons for whom a family medical leave may be taken differ from the persons specified for emergency leave. See the Family Medical Leave Fact Sheet for further information about family medical leave.

Am I entitled to both emergency leave and family medical leave?

An employee may be entitled to both leaves. They are separate leaves and the right to each leave is independent of any right an employee may have to the other leave. An employee who qualifies for both leaves would have full entitlement to each leave.

RIGHTS AND RESPONSIBILITIES

How long is an emergency leave?

An emergency leave of absence can last up to 10 days a year.

Does emergency leave have to be taken all at one time?

The 10 days of an emergency leave don't have to be taken consecutively.

However, emergency leave is generally counted in full days. Even if an employee takes only part of a day as an emergency leave, the employer can count it as a full day of leave. For example, an employee who takes half a day off to take his or her child for medical tests may be deemed to have taken one day's leave.

How do employees tell their employers about their plans?

An employee must inform the employer that he or she will be taking an emergency leave of absence.

What if there is no time for the employee to give notice?

If an employee has to begin an emergency leave before notifying the employer, he or she must inform the employer as soon as possible after starting the leave.

Can the employer ask for evidence of why the employee took an emergency leave?

An employer is allowed to ask an employee to provide evidence that he or she is eligible for an emergency leave of absence. The employee is required to provide evidence that is reasonable in the circumstances.

Can an employer fire an employee for taking leave?

No. If an employee is eligible for an emergency leave, the employer can't penalize him or her in any way for taking a leave.

What happens to an employee's pay, seniority and benefits?

- Employers do not have to pay wages when an employee is on emergency leave
- Employees earn seniority and credit for length of service and length of employment while on emergency leave
- While an employee is on emergency leave, the employer must continue to pay its share of the premiums to certain benefit plans (i.e., pension plans, life, accidental death, extended health insurance plans and dental plans) that were offered before the leave.

What if the employer does not follow the *ESA*?

If an employee thinks the employer is not complying with the *ESA*, he or she can call or visit the nearest Ministry of Labour office to discuss a particular situation or to file a complaint. Complaints are investigated by an employment standards officer who can, if necessary, make orders against an employer—including an order to comply with the *ESA*.

This Fact Sheet provides general information about emergency leaves as set out in the *Employment Standards Act, 2000 (ESA)* and its regulations. For complete information please refer to the *ESA* and the regulations.